

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
MAY 28 2009
CLERK, U.S. DISTRICT COURT
By Deputy

BENJAMIN FRANKLIN SMITH, PRO SE, §
also known as §
BENJAMIN F SMITH, §
also known as §
BENJAMIN SMITH, §
County No. 63648, §
Previous TDCJ-CID # 579976, §
Previous TDCJ-CID # 482056, §
§
Plaintiff, §
§
v. § 2:09-CV-0096
§
SONDA WILLIAMS, RONALD LACY, §
BRIAN THOMAS, §
POTTER COUNTY TEXAS, §
and NORTHWEST TEXAS HOSPITAL, §
§
Defendants. §

PARTIAL ORDER OF DISMISSAL

Plaintiff BENJAMIN FRANKLIN SMITH, acting pro se and while a prisoner incarcerated in the Potter County Jail, has filed suit pursuant to Title 42, United States Code, section 1983 complaining against the above-referenced defendants and has been granted permission to proceed in forma pauperis.

On May 11, 2009, a Report and Recommendation was issued by the United States Magistrate Judge analyzing and recommending dismissal of plaintiff's claims against defendant NORTHWEST TEXAS HOSPITAL.

Plaintiff filed his Objections May 26, 2009.

The Court has made an independent examination of the records in this case and has

examined the Magistrate Judge's Report and Recommendation, as well as plaintiff's Objections.

The Court is of the opinion that the objections of the plaintiff should be OVERRULED and the Report and Recommendation of the United States Magistrate Judge should be ADOPTED.

This Court, therefore, does OVERRULE plaintiff's objections, and does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge.

IT IS THEREFORE ORDERED that the Civil Rights Claims by plaintiff BENJAMIN FRANKLIN SMITH against defendant NORTHWEST TEXAS HOSPITAL are DISMISSED WITHOUT PREJUDICE FOR FAILURE TO STATE A CLAIM ON WHICH RELIEF CAN BE GRANTED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

The Clerk shall send a copy of this Order to plaintiff and to any attorney of record. . The Clerk shall also mail copies of this order to TDCJ-Office of the General Counsel, P.O. Box 13084, Austin, TX 78711; and to the Pro Se Clerk at the U.S. District Court for the Eastern District of Texas, Tyler Division.

IT IS SO ORDERED.

ENTERED this 28 day of May, 2009.


MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE